

Sales of tangible personal property for the purpose of resale are not taxable so long as sellers obtain Certificates of Resale in accordance with 86 Ill. Adm. Code 130.1405. (This is a GIL.)

January 6, 1999

Dear Ms. Xxxxx:

This letter is in response to your letter that we received on October 5, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

Our company manufacturers mobile cranes and material handling equipment such as overhead traveling cranes, hoists, drives, and monorail tracks for use in manufacturing and distribution facilities throughout the United States and Canada.

We would like to request a written ruling on the following situations:

- We are offering golf shirts, to our employees, with our Company logo embroidered on the shirt. They are being offered to employees at 15% less than the actual price. The Company will pay the additional 15%. Should we assess use tax for all sales of golf shirts which we sold to our employees in your State or Province?
- We are in the process of making NAME videos and workbooks. We will sell the safety videos and workbooks to our dealers and distributors. Would either of the items be a taxable sale to our customer? If yes, which one or both?

In general, the Illinois Retailers' Occupation Tax (i.e. sales tax) is imposed upon the total gross receipts received by retailers who make sales of tangible personal property, including shirts, videos and workbooks, to Illinois end users. See 86 Ill. Adm. Code 130.101, enclosed. However, the sale of tangible personal property for the purpose of resale is not taxable so long as the seller obtains Certificates of Resale in accordance with 86 Ill. Adm. Code 130.1405, enclosed.

"Gross receipts" from sales of tangible personal property at retail is defined as the total selling price or the amount of such sales. "Selling price" or the "amount of sale" means the consideration for a sale valued in money

whether received in money or otherwise, including cash, credits, property, and services, but not including the value of or credit given for traded-in tangible personal property where the item that is traded-in is of like kind and character as that which is being sold, and shall be determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever. See 35 ILCS 120/1. Section 3 of the Illinois Use Tax Act, 35 ILCS 105/3, imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. The Use Tax is also measured upon the "selling price" of the tangible personal property, 35 ILCS 105/1 and 3-10.

While we are not sure who is doing the retail selling of the shirts about which you have made inquiry, the taxation of them is governed by the above stated principles.

I hope this information is helpful. The Department of Revenue maintains a Web site which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Karl Betz
Associate Counsel

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